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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,768	06/25/2003	Carl J. Ernesti	22671.00	2272
7590	06/03/2004		EXAMINER	
Richard C. Litman LITMAN LAW OFFICES, LTD. P.O. Box 15035 Arlington, VA 22215			GRANT, ALVIN J	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/602,768	ERNESTI, CARL J.
	Examiner	Art Unit
	Alvin J Grant	3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/25/03
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Objections

Claims 8 and 10 are objected to because both claims are identical. Please cancel claim 10 because it will not be further processed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 9, 15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwaka '263.

Kwaka discloses a wrench with a wrench stop affixed thereto, comprising: an elongated shank having at least one gripping end having opposing sides, the gripping end being adapted for gripping a fastener, the shank being turned in order to apply torque for tightening and loosening the fastener; and a smooth rigid circular plate attached to one of the opposing sides of the gripping end in order to prevent the gripping end from slipping past the fastener, the plate having a hole defined through the center of the plate adapted for extending around the shank of a bolt or stud; the gripping end comprises a U-shaped pair of jaws defining an open end wrench, the circular plate being attached to both jaws across the open end of the wrench, the diameter of the hole defined in the center of the plate being less than the width of the U-shaped opening defined by the

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jaws, whereby the jaws are prevented from sliding off lands defined on the fastener; the wrench having ratcheting capabilities (column 2, line 63); and the plate is cast in one piece (inherently metal and permanent) with the gripping end (column 3, lines 9 and 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwaka. Kwaka does not specifically disclose a circular plate at the open end, or a circular plate having a thickness of between about one-sixteenth and one-quarter inch. However, since Kawaka has installed a circular plate at the boxed end of the wrench for the purpose of preventing the wrench from sliding off the edge of the workpiece, it seems obvious that a second circular plate could be placed at the open end for the same reason. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the wrench of Kwaka to have a circular plate at the open end as an alternate means of securing the open end of the wrench to the workpiece. Regarding the thickness of the plate, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the plate of Kwaka to have a thickness of between about one-sixteenth and one-quarter inch, since it has been held that where the general conditions of a claim are disclosed in

the prior art, discovering an optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ233.

Claims 3, 7, 8, 11, 12, 14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwaka in view of White '713.

Kwaka is described above. **Referring to claims 3 and 14**, Kwaka does not specifically disclose internal gripping teeth (serrated) within the box head of the wrench. White discloses a box end wrench having internal gripping teeth within the box head so as to minimize the occurrence of the wrench slipping on a workpiece during tightening or loosening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the apparatus of Kwaka et al. to have internal gripping teeth in the box head as taught by White so as to minimize the occurrence of the wrench on the workpiece during tightening or loosening operations.

Referring to claims 7, 8, 11, 12, 19 and 20, Kwaka does not specifically disclose magnetism, forging, welding or gluing as means of securing the stop to the wrench. White discloses a wrench having a magnetic head on which a metal stop is securable (through the magnet); and using forging (claim 5), welding and gluing (column 3, line 10) as means of permanently securing the stop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a magnetic head on which a metallic stop is securable (through magnetism); and also secure the stop of Kwaka by gluing, welding and forging as taught by White as means of permanently securing the stop.

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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwaka in view of White and in further view of Dedrick '316.

Kwaka as modified is described above. The modified Kwaka does not specifically disclose a stop made of plastic. Dedrick discloses an attachment for a wrench wherein the stop is made of plastic so as to insulate the top portion of the wrench. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a plastic stop in the apparatus of Kwaka et al. as taught by Dedrick so as to insulate the top portion of the wrench.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Grant whose telephone number is (703) 305-3315. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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